

GOVERNMENT OF TELANGANA

ABSTRACT

Tribal Welfare Department – Erstwhile Warangal District - Appeal Petition filed by Kumari Thakur Manisha D/o. Krupal Singh R/o. Warangal Village and Mandal and District, under Section 7(2) of the Act 16 of 1993, against the orders of the District Collector, Warangal issued in Proceedings No.C5/6034/2013, dated 05.12.2014 – Appeal Dismissed - Orders – Issued.

TRIBAL WELFARE (LTR) DEPARTMENT

G.O.Ms.No. 27

Dated: 30-06-2023

Read the following:-

1. Proceedings No.C5/6034/2013, dated 05.12.2014 of the Collector & District Magistrate, Warangal District.
2. Appeal Petition filed by Kumari Thakur Manisha D/o. Dr.Thakur Krupal Singh R/o. H.No.11-22-729/1, Warangal village & Mandal and District, dated 02.01.2015 & 12.1.2015
3. Govt. Memo.No.26/LTR.A1/2015, dated 24.02.2015, 28.8.2017, 29.10.2018, 16.7.2019 and 05.10.2020.
4. From the Collector, Warangal Urban, letter Rc.No.C3/573/2020, dated 17.03.2020.
5. Govt. Notice No.26/TW.LTR/2015, dated 07.04.2022.

ORDER:-

1. In the reference 1st read above, the Collector & District Magistrate, Erstwhile Warangal District now Hanamkonda District has cancelled the ST Yerukala Caste Certificate of the Appellant Kumari Thakur Manisha D/o. Dr.Thakur Krupal Singh, Warangal V&M and District, issued by the then Tahsildar Warangal vide ID No.TR 1292328143 dated 13.03.2012 as it is proved to be an incorrect one since she belongs to Bondili (BC-B) Community. The gist of the cancellation orders is as follows:

- The Commissioner of Tribal Welfare, Hyderabad vide Rc.No.1420/01/2013/TRR/VC-1, dated 03.08.2013 had informed that Kum.Thakur Manisha D/o Thakur Krupal Singh, a candidate for admission into MBBS/BDS course for the year 2013-14 is the offspring of inter-caste married couple of father belonging to non-tribal and mother belongs to ST YERUKALA. Therefore, the Commissioner (TW) requested the District Collector, Warangal to cause detailed enquiry into her ST Yerukala caste certificate bearing Trans ID No.TR1292328143 dated 13.03.2012 issued by the Tahsildar, Warangal, as per guidelines of Govt. of India letter No.39/37/1973-SCT-1, dated 04.03.1975, Ministry of Home Affairs, New Delhi for determining the caste of the child of inter-caste married couple, by placing the matter before the DLSC.
- Vide Lr.No.C5/C4/6034/2013, dated 13.8.2013 – the Tahsildar, Warangal was directed to cause enquiry into the social status of Kum. Thakur Manisha and submit report.
- The Tahsildar, Warangal enquired into and submitted report vide letter No.I/3239/2013, dated 27.08.2013 stating that father is of "Bondili" Caste (BC-B) and mother belongs to ST-YERUKALA. During enquiry, it was found that parents and children used to follow customs & traditions of 'Yerukala' ST caste. The children used to attend the traditions, ceremonies conducted by the caste people from mother's side and that the inter-caste married couple and children were recognized and accepted by the ST community. Further, the said Yerukala caste certificate was issued as per GO Ms.No.371, SW (B2) Department dated 13.04.1976 duly satisfied that the inter-caste married couple and children were recognized and accepted by ST community. Previously when they were residing in Warangal Mandal for the purpose of job, the Caste Certified was issued to her as 'Yerukala' and the candidate residing at Karimnagar. Connected record of his office was not available.

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The Tahsildar, Warangal further informed that the Tribal Development Association, AP Hyderabad had submitted a representation through which they stated that they were fully convinced and satisfied about their brought up in the midst of Yerukala community traditions and customs and also admitted that the children were continuously participating in their ceremonial functions, marital functions, family get together, communal meetings.

- The individual along with her guardians appeared before the DLSC on 13.10.2014 but failed to show any documentary evidence that she was brought up with her mother since her childhood.
- A letter was addressed to the Tahsildar, Bapatla to get the details of surname "Gaikwad" to which caste Smt.Jagannadham Sharada Devi W/o.Prakash Babu Gaikwad was born at Stuvartpuram village of Bapatla Mandal & belongs to ST – Erukala.
- Tahsildar, Bapatla vide his letter Rc.No.885/2014-C, dated 30.10.2014 reported that:
 - Smt. Jagannadham Sharadadevi D/o Nageshwar Rao (wife of Sri Sarya Prakash Babu @ Prakash Babu Gaikwad) was native of Stuartpuram village of Bapatla Mandal, Guntur District and presently residing at Hyderabad.
 - Sri Jagannadham Nageshwar rao and Jagannadham Mery Durgamba are the parents of Smt.Jagannadham Sharadadevi and they belong to Yerukala (ST) caste, they follow traditions of Yerukala caste. Jagannadham Nageshwar rao retired as Teacher at S.A. Elementary School, Stuvartpuram and died 19 years back. Smt.Jagannadham Mery Durgamba retired as Staff Nurse in the Medical Department and she also died 9 years back. Sri Jagannadham Nageshwar rao and Jagannadham Mery Durgamba are having six children i.e. 3 sons and 3 daughters and they all married Yerukala community people. They also follow traditions of Yerukala caste.
 - Smt.Jagannadham Sharadadevi is the eldest daughter of the above parents – she married Satya Prakash Babu @ Prakash Babu Gaikwad who was the resident of Seethanagaram village of Tadepalli Mandal, Guntur District.
 - No persons were having surname "GAIKWAD" in Stuvartpuram village in Yerukala (ST) community.
- As per Supreme Court Judgement in C.A.No.654 of 2012, in an inter-caste marriage between Tribal and Non-Tribal, there may be as per exemption that child has the caste of the father. This is stranger where husband belongs to forward caste, but not conclusive. But in enquiry, it was revealed that the applicant was brought up by parents and there was no document evidence or other evidence presented proving that she was brought up only by her mother and faced any of the deprivations, disadvantages or handicaps.
- The DLSC recommended for cancellation of ST Yerukala caste certificate declaring her as belonging to her father's caste i.e. Bondili (BC-B).
- Findings of DLSC were examined and exercising powers conferred under Section 5 (1) of the Act 16/1993 R/W Sub-Rule (7) of Rule (9) of the Rules, 1997 communicated in GO Ms.No.58, SW (J) Department, dated 12.5.1997, the ST Caste Certificate bearing Trans.ID No.TR 1292328143, dated 13.3.2012 issued by the then Tahsildar, Warangal was cancelled.

2. Aggrieved by the above cancellation orders of the Collector & District Magistrate, Warangal in the reference 1st read above, the Appellant Kum.Thakur Manisha C/o Dr.G.Leela Rani, Vidyanagar, Karimnagar, has filed the Appeal petition in the reference 2nd read above under the Act 16 of 1993 stating that:

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- She has been selected for MBBS under ST quota for the year 2013-14 with Rank 6215 and allotted to Siddhartha Medical College, Vijayawada and completed 1st year with first class marks.
 - She is the off-spring of inter-caste marriage; her mother belongs to YERUKALA ST community and father, a non-tribal.
 - The Commissioner (TW) in letter dated 3.8.2013 to District Collector, Warangal very clearly mentioned to cause detailed enquiry as per GoI guidelines in letter No.39/37/1973-SCT-1, dated 04.03.1975 wherein guidelines were issued for determining caste of the child born out of inter-caste marriage wedlock.
 - The DLSC has failed to notice guidelines issued in Annexure-B of the above said letter thereby causing grave injustice to her for being born to an inter-caste married couple, and caused damage to her career.
 - She was brought up by her mother and maternal grandmother, great grandmother and maternal aunties who all belong to ST community. It was wrongly projected in the proceeding that she failed to show any documentary evidences whether she has been brought up with her mother since childhood.
 - She has been brought up by her mother and pursued her school and intermediate studies staying with her mother at Karimnagar. Her school and intermediate records also reflected that she belongs to ST community.
 - The DLSC committed glaring mistake asking the Tahsildar, Stuvartpuram of Bapatla Mandal to get details of surname GAIKWAD to which caset it belongs, genealogy and also customs and traditions of the caste of above said person (Saraya Prakash Babu @ Prakash Babu Gaikwad).
 - In the Caste Certificate submitted by her of Saraya Prakash Babu @ Prakash Babu Gaikwad, her maternal grandfather, it was clearly mentioned that he was native of Seethanagaram, Tadepally Mandal, Guntur District belongs to YERUKALA ST. Instead of conducting enquiry by Mandal Revenue Officer Tadepalli about Prakash Babu, letter was written to Mandal Revenue Officer Stuartpuram to which place her grandmother Jagannadam Sharada Devi belongs to and not her grandfather Saraya Prakash Babu. Hence, the Mandal Revenue Officer of Bapatla Mandal could not send any information about Saraya Prakash Babu @ Prakash Babu Gaikwad and naturally submitted that "no person" having the surname of Gaikwad in Stuvartpuram village of Bapatla Mandal existed.
 - Her grandfather surname is "SARAYA" and he has put Gaikwad as alias. The DLSC ignored details of his caste certificate despite deposition in the affidavit given by the maternal family members and also his caste certificate was ignored.
 - His father works at Warangal and mother stays in Karimnagar having her private practice. She has been staying with her mother and pursued school and college studies in Karimnagar. Hence, it is not true to say that she has not been brought up by her mother.
 - In view of the above facts, she stated that she is undoubtedly belongs to YERUKALA community by virtue of her mother's community and upbringing and acceptance by the community.
 - Hence, requested to suspend orders issued by Collector, Warangal and arrange issue orders for grant of Community Certificate in view of her career and future prospects.
3. The Appellant has submitted the following documents along with her Appeal:
- i) Copy of Community, Nativity and Date of Birth Certificate dated 13.4.1998 issued by Mandal Revenue Officer, Hanamkonda to Smt.Leela rani Gaikwad W/o Kripal singh (mother) certifying that she belongs to ST – Erukala community.

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- ii) Copy of Caste Certificate dated 02.06.1987 issued by Mandal Revenue Officer, Tadepalli to Saraya Prakash Babu (alias) Prakash Babu Gaikwad R/o Seethanagaram H/o Tadepalli, Tadepalli Mandal, Guntur District certifying that he belongs to Yerukala (ST) community.
- iii) Copy of Service Book of Dr.Jagannadham Sarada Devi, Medical Officer W/o Sri Prakash Rao – caste was mentioned as Scheduled Tribe (Yerukala).
- iv) Copy of Caste Certificate issued by Mandal Revenue Officer, Medak to Sri Praveen Gaikwad S/o Prakash Babu Gaikwad R/o Medak – certified as belong to Yerukala ST community.
- v) Copy of Community, Nativity and Date of Birth Certificate issued by Mandal Revenue Officer, Kesara (Ranga Reddy District) to Sri Prem Kumar Gaikwad S/o Prakash Babu Gaikwad – certified as belonging to ST Yerukala community.
- vi) Copy of Transfer Certificate issued by Head Mistress, St.John's EM High School, Karimnagar to Kum.Thakur Manisha (SSC) – wherein her caste was mentioned as ST.
- vii) Copy of Transfer Certificate issued by Principal, Alphores Girls Junior College, Karimnagar to Kum.Thakur Manisha wherein her caste was mentioned as ST.
- viii) Copy of Community, Nativity and Date of Birth Certificate issued by Tahsildar, Warangal to Kum.Thakur Manisha certifying her caste as Erukala ST.
- ix) Copy of Sworn statement of Dr.Leela Rani Gaikwad M/o Manisha Thakur R/o Karimnagar.
- x) Copy of Sworn statement of Kumari Manisha Thakur D/o Thakur Krupal Singh R/o Karimnagar.
- xi) Copy of Sworn Statement of Sri Thakur Krupal Singh F/oManisha Thakur R/o Nizamabad.

4. The Appellant Kumari Manisha Thakur D/o.Dr.Thakur Krupal Singh has also filed Memorandum of Appeal before the Government on 12.01.2005 through her Counsel Sri T.V.Kalyan Singh, Advocate, Himayatnagar, Hyderabad. The gist of appeal ground is as under:

- i) She belongs to Scheduled Tribe (Yerukala) Community and got Rank No.6251 in MBBS/BDS 2013 entrance examination conducted by Dr.NTR University of Health Sciences, Vijayawada. As per the counseling conducted by the University, she got seat in Mamatha Medical College, Khammam and in the 2nd counseling she got seat in Siddhartha Medical College, Vijayawada. She has been studying MBBS in the said college.
- ii) At the time of counseling during the verification of her social status, the Tribal Welfare Officer has raised a doubt on the genuinity of her social status certified issued by the Revenue authorities on the ground that she is the off-spring of inter-caste married couple – father belongs non-tribal and mother belongs to ST (Yerukala) community. Therefore, advised to attend before the Commissioner, Tribal Welfare, Hyderabad (i.e. 1st respondent) along with her parents to substantiate with the oral and documentary evidence.
- iii) The 1st respondent directed the 2nd respondent to enquire and verify the caste certificate issued to the petitioner. When the provisional admission was not being granted into MBBS 2013 on the ground of verification of the caste certificate is pending, she filed WP.No.23528 of 2013 in the High Court of AP. By virtue of the interim orders, she has been attending the classes and studying 1st MBBS course.

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- iv) The 2nd respondent after completion of the enquiry has passed an order in Procs.No.C5/6034/2013, dated 5.12.2014 wherein it was held that the caste certificate issued to her was cancelled as she belongs to Bondili (BC-B) community and does not belong to ST Yerukala community.
- v) The 2nd respondent ought to have considered her belongs is ST Yerukala and she has been brought up under the customs and traditions of the ST Yerukala community.
- vi) The 2nd respondent failed to consider that her entire school record shown as ST Yerukala community.
- vii) The 2nd respondent failed to consider that the Tahsildar, Warangal has reported that she was brought up in the midst of Yerukala traditions and customs – during enquiry it was found that after the inter-caste marriage, both parents and children used to follow the customs and traditions of Yerukala ST caste.
- viii) The 2nd respondent failed to consider that as per GO Ms.No.371, dated 13.4.1976 it is clearly held that for the purpose of admission into educational institutions and professional colleges, the lower caste of the either of the parents in the inter-caste marriage shall be deemed to be the caste of the child and it shall be eligible for the reservation of the seats made for that caste.
- ix) The 2nd respondent failed to consider the letter issued by the Tribal Development Association (AP) stating that she was continuously practicing their ceremonial functions, marital functions, family get-together and also attending to communal meetings. She also known to have cultivated the values and traditions of Yerukala i.e. ST community and has become member of the community.
- x) The 2nd respondent failed to consider decision of the Hon'ble Supreme Court of India in 2012 (3) SC page 400.

5. In the reference 3rd read above, Government have admitted the appeal petition, granted stay on the operation of the orders of District Collector, Warangal in Proceedings C5/6034/2013, dated 5.12.2014 pending disposal of the appeal and requested the District Collector, Warangal to furnish the original case records along with para-wise remarks to Government.

6. In the reference 4th read above, the Collector & District Magistrate, Warangal(Urban) now Hanamkonda District has furnished the record bearing file D.Dis.No.C5/6034/2013 along with para-wise remarks.

7. In the reference 5th read above, notices were issued to the appellant and all other concerned to attend for the hearing on 23.04.2022. The Appellant called absent. Father of the Appellant Dr.Thakur Krupal Singh and her Counsel T.V.Kalyan Singh, Advocate present. Father of the Appeal informed that her daughter (i.e., Appellant Thakur Manisha is living in Canada). Counsel for the Appellant prayed time for (2) weeks for submission of Written Arguments. Time granted. Counsel not submitted written arguments.

8. The Government have examined the Appeal of the Appellant Kumari Thakur Manisha and with reference to the evidences available on record and guidelines issued by the Ministry of Home Affairs, Government of India, New Delhi (No.39387/73-SCT.I, dated 31.5.1977; F.No.12026/6/2006-C&I.M.I, Ministry of Tribal Affairs), guidelines issued by the State Government in Social Welfare (CV Department) in Circular Memo.No.10926/CV.I/97-2, dated 16.2.1998 and with reference to the settled legal positions of the Hon'ble Apex Court. Admittedly, the Appellant is the off-spring born to mother of ST Yerukala community and father a non-tribal community. Both her parents are Government doctors but working at two different places – and the Appellant being a girl-child was grown-up and educated under mother's care and guardianship. There is no evidence on record that she suffered disabilities-socially, economically and educationally, cumulatively. There is no evidence that the child has been accepted by the Scheduled Tribe community as a member of their community and has been brought up in that surroundings and the Appeal is found devoid of merits.

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9. Therefore, the Appeal filed by Kumari Thakur Manisha D/o. Dr. Krupal Singh is hereby DISMISSED upholding orders of the Collector & District Magistrate, Warangal in Proceedings No.C5/6034/2013, dated 5.12.2014.

10. The Collector and District Magistrate, erstwhile Warangal District now Hanamkonda District shall take necessary action in the matter.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF TELANGANA)

Dr. CHRISTINA Z.CHONGTHU,
SECRETARY TO GOVERNMENT.

To

The Collector and District Magistrate, Hanamakonda District (By RPAD)

Kumari Thakur Manisha D/o. Dr.Thakur Krupal Singh

R/o. H.No.11-22-729/1, Warangal village & mandal,
Warangal District (By RPAD)

Copy to:-

The Collector and District Magistrate, Warangal District (BY RPAD)

Sri T.V Kalyan Singh, Advocate, Plot No.57, Balaji Enclave,

Transport Road, Diamond Point, Secunderabad-500009. (By RPAD)

The Revenue Divisional Officer, Warangal.

The Tehsildar, Warangal Mandal, Warangal District

(Serve the same to the appellant) (BY RPAD)

The Director, TCR&TI, TS, Hyderabad

The P.S. to Minister for ST Welfare

The PA to Secretary to Govt. (TW)

The PA to Special Secretary to Govt.(TW)

SF/SC.

//FORWARDED::BY ORDER//

SECTION OFFICER.